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STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
LANSING

STANLEY "SKIP" PRUSS
DIRECTOR

To: Stanley Pruss, Director

From: Patricia L. Halm, Tribunal Chair

Date: February 1, 2010

Re: Michigan Tax Tribunal Fee Schedule Report filed pursuant to Section 372 of Public Act 130 of 2009

During FY08-09, the Michigan Tax Tribunal amended its Administrative Rules under the Administrative Procedures Act, being MCL 24.201, *et seq.* These amendments were effective October 19, 2009. Included in these amendments were revisions to the Tribunal's filing fees. See Attachment A for the revised fees. Because appeals are filed in the Tribunal almost exclusively in the months April through July, it is not possible to determine the impact the fee revisions will have on the Tribunal's revenue.

In FY08, the Tribunal generated \$1,316,583 in fees. Assuming that the number of cases filed in the Tribunal in FY10 are approximately the same as in FY08, the Tribunal's filing fees would generate \$3,575,967. The Tribunal's FY09-10 total budget is \$2,790,000. While this is an increase of approximately \$800,000, it should be noted that the Tribunal has been significantly understaffed, resulting in an unacceptable delay in case resolution.

The Tribunal recommends that MCL 205.749(2) be repealed. This subsection states:

The residential property division of the tribunal shall not charge fees or costs on appeals of homestead property.

In FY09, 14,090 appeals were filed in the Tribunal's "residential property division," also known as the Small Claims Division. Due to MCL 205.749(2), no fees were paid for the vast majority of these appeals. As a result, appeals filed in the Tribunal's Entire Tribunal Division subsidized the Small Claims Division. In other words, the business community paid so that homeowners didn't have to. During the process of revising the Tribunal's Administrative Rules, representatives of the business community objected to having to totally fund the Tribunal without any assistance from homeowners. Requiring homeowners to pay even a minimum fee, for example \$25.00, would permit a reduction in the fees paid by businesses.

The Tribunal also recommends that its Rules, specifically Rules 202 and 307, be amended to include a fee for a classification appeal. Pursuant to MCL 211.34c, only the State Tax Commission (STC) may appeal a property's classification. This appeal must be filed in the

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Tribunal. Until FY10, only a handful of these appeals had ever been filed since a property's classification rarely had a tax impact. However, due to recent changes in the General Property Tax Act and the Michigan Business Tax Act, a property's classification now impacts the amount of tax business pay. After reviewing the classification of business property throughout the state, the STC determined that approximately 10,600 properties were misclassified. In the first quarter of FY10, the STC filed a classification appeal for each of these properties. Because the Tribunal's Rules do not currently include a fee for these appeals, over one-third of the cases filed in the Tribunal in calendar year 2009 will be heard at no cost. While it is true that, if there was a fee for classification appeals, the fees would be paid by the STC, an agency, to the Michigan Tax Tribunal, another State agency. On its face, this seems to represent merely a shifting of State funds. On the other hand, at a time when each Agency is charged for services provided by another Department or Agency, as in the Department of Information Technology, the Tribunal believes that its services should not be provided for free. Moreover, if, by statute, these appeals were required to be filed in the Court of Claims, the STC would have been required to pay a filing fee.

ATTACHMENT A

Entire Tribunal Fees and Charges

R 205.1202 Fees and charges.

Rule 202. The following fees shall be paid to the clerk in all entire tribunal appeals upon filing:

(a) Property tax appeal petitions: Filing fee

(i) Allocation, apportionment, and equalization appeals.....\$250.00.

(ii) Valuation appeals.

Value in contention* Filing fee**

\$100,000 or less.....\$ 250.00.

\$100,000.01 to \$500,000.00.....\$ 400.00.

More than \$500,000.....\$ 600.00.

*Value in contention is the difference between the state equalized value as determined from the assessment and the state equalized value contended by the petitioner or the difference between the taxable value as determined from the assessment and the taxable value contended by the petitioner, whichever is greater.

**The filing fee for multiple, contiguous parcels owned by the same person is the filing fee for the parcel that has the largest value in contention, plus \$25.00 for each additional parcel, not to exceed a total filing fee of \$2,000.00. 5

(b) The fee for filing a stipulation for entry of consent judgment instead of a property tax appeal petition is \$50.00.

(c) The fee for filing a motion to amend a property tax appeal petition to add a subsequent year assessment is equal to 50% of the fee provided in subdivision (a)(ii).

(d) The fee for filing a non-property tax appeal petition or a petition contesting a special assessment is \$250.00.

(e) The fee for filing a stipulation for entry of consent judgment instead of a non-property tax appeal or special assessment petition is \$50.00.

(f) The fee for filing a stipulation for entry of consent judgment or a motion, other than a motion for immediate consideration, a motion for summary disposition or partial summary disposition or a motion to withdraw a petition, is \$50.00.

(g) The fee for filing a motion for immediate consideration or a motion for summary disposition or partial summary disposition is \$100.00.

(h) The fee for filing a motion to withdraw a petition is \$0.00.

(i) The fee for certification of the record on appeal to the court of appeals is \$100.00.

(j) The fee for copies of pleadings and other documents is \$.50/page.

Small Claims Fees and Charges

R 205.1307 Fees.

Rule 307. (a) There are no fees for filing a property tax appeal petition in a small claims division proceeding contesting a property's state equalized or taxable value if the property has a principal

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residence exemption of at least 50% for all tax years at issue. For all other small claims proceedings, the following fees shall be paid to the clerk upon filing:

- (i) The fee for filing a property tax appeal petition contesting a property's state equalized or taxable value is 50% of the filing fee provided in R 205.1202(a). If the petition contains multiple, contiguous parcels of property owned by the same person, there shall be an additional \$25.00 fee for each additional parcel, not to exceed a total filing fee of \$1,000.00.
- (ii) The fee for filing a property tax appeal petition contesting the denial of a principal residence or qualified agricultural exemption is \$25.00.
- (iii) The fee for filing a non-property tax appeal petition or a special assessment petition is \$100.00.
- (b) The fee for filing a stipulation for entry of consent judgment instead of a property tax appeal petition, a non-property tax appeal petition or a special assessment petition is \$25.00.
- (c) There are no fees for filing a motion in the small claims division if the property tax appeal petition filed contests a property's state equalized or taxable value and the property has a principal residence exemption of at least 50% for all tax years at issue. For all other small claims proceedings, the fee for filing a stipulation for entry of consent judgment or a motion, other than a motion for immediate consideration, a motion for summary disposition or partial summary disposition or a motion to withdraw a petition, is \$25.00.
- (d) The fee for filing a motion for immediate consideration or a motion for summary disposition or partial summary disposition is \$50.00.
- (e) The fee for filing a motion to withdraw a petition is \$0.00.
- (f) The fee for certification of the record on appeal to the court of appeals is \$100.00.
- (g) The fee for copies of pleadings and other documents on file with the tribunal is 50 cents per page.